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8
9 **IN THE SUPREME COURT**
10 **STATE OF ARIZONA**
11

12 In the Matter of PETITION TO
13 AMEND THE ARIZONA RULES
14 OF CIVIL PROCEDURE RULE
15 8(h)(1) and RULE 84

Supreme Court No. R-08-0008

**Comments of the State Bar of
Arizona Regarding Petition to
Amend Rules 8(h)(1) and 84 of the
Arizona Rules of Civil Procedure**

16 The State Bar of Arizona ("the State Bar") supports petitioner's Petition insofar as it
17 proposes adoption of a standard form of civil cover sheet for use in all civil actions filed in
18 the Superior Court. For those reasons noted below, however, the State Bar (1) opposes
19 amendment of Rule 84 of the Arizona Rules of Civil Procedure to add the civil cover sheet
20 as a new form, (2) proposes alternative amendments to Rule 8(h)(1) of the Arizona Rules of
21 Civil Procedure, and (3) suggests revisions to the form of civil cover sheet proposed by
22 petitioner.

23 The State Bar's position is guided and informed by its understanding that civil cover
24 sheets are primarily intended to assist the Clerks of the Superior Court and their personnel
25 with data entry, the generation of statistical data for use in the management and tracking of
26 cases, and reporting of statistical information relating to cases.

1 **I. Opposition to Inclusion of Civil Cover Sheet as a Form in Rule 84.**

2 The State Bar of Arizona perceives a need to maintain flexibility with respect to the
3 specific information required to be set forth on a civil cover sheet. As new causes of action
4 are created (*i.e.*, actions brought pursuant to A.R.S. § 23-212, *et seq.*), new case designations
5 recognized (*i.e.*, Rule 8(i) Complex Civil Litigation Program Designation), and additional
6 classes of data identified as useful for statistical analysis, the form of civil cover sheet used
7 by the Superior Court should be revisited and revised periodically to accommodate the same.
8 Inclusion of a civil cover sheet in the forms set forth within Rule 84 of the Arizona Rules of
9 Civil Procedure will unnecessarily restrict flexibility in the form of civil cover sheet by
10 requiring an amendment to the Rules of Civil Procedure, and compliance with the procedures
11 required to amend the form, each time a need for revision arises.

12 Rather than including the civil cover sheet as a form in Rule 84, the State Bar
13 suggests that Rule 8(h) expressly provide that the Administrative Office of the Courts
14 ("AOC") may prescribe a form of civil cover sheet to be completed and filed with the initial
15 complaint in any civil action. Any currently-approved form of civil cover sheet could be
16 made available on the Superior Court web site for each county and the Supreme Court's
17 website. By having the form of civil cover sheet approved by the AOC, statewide
18 consistency as to the form of the cover sheet could be ensured. Likewise, desired flexibility
19 as to the substance of the civil cover sheet would be maintained by not including the sheet
20 within the forms set forth in Rule 84 of the Arizona Rules of Civil Procedure.

21 **II. Alternative Proposed Amendment to Rule 8(h)(1).**

22 Petitioner has proposed specific alterations to Rule 8(h)(1). Aside from revision to
23 these proposed alterations required to address the State Bar's concerns identified above, the
24 State Bar recommends several additional revisions to the proposed amendment. Specifically,
25 petitioner's proposed amendment specifies various classes of information to be contained on
26 a civil cover sheet. The State Bar perceives no reason to specify within the text of Rule

1 8(h)(1) the types of data to be included in a civil cover sheet, and suggests that the Rule be
2 purposefully left silent on this issue so as to provide the AOC with additional flexibility in
3 specifying the categories of information required by the form. Additionally, the State Bar
4 recommends amending the title of Rule 8(h)(1) to include a reference to civil cover sheets.

5 Attached as Exhibit A is a red-lined version of petitioner's proposed revisions to Rule
6 8(h)(1), which reflects the State Bar's suggestions set forth above.

7 **III. Suggested Revisions to Petitioner's Proposed Form of Civil Cover Sheet.**

8 Petitioner has included a proposed form of civil cover sheet at Exhibit B to its
9 Petition. As noted earlier, the State Bar believes it unnecessary and imprudent to include this
10 form within Rule 84 of the Arizona Rules of Civil Procedure. Nonetheless, if this Court
11 disagrees, the State Bar suggests that the form be revised in the following respects:

12 A. Grammatical Errors. Petitioner's proposed form contains a grammatically
13 improper use of an apostrophe in each parenthetical following the spaces provided for
14 "Plaintiff's Name(s):" and "Defendant's Name(s):". The apostrophes in each of "additional
15 plaintiff's" and "additional defendant's" should be removed.

16 B. File Stamp Box. Petitioner's proposed form includes a block for "File Stamp"
17 at the top, right corner of the page. The State Bar understands that civil cover sheets are used
18 for data entry into the Superior Court's case management system, and are neither part of the
19 record of the court nor placed in the court's file for any particular case. As such, this "File
20 Stamp" block should be removed from the form.

21 C. Subcategory Codes. Petitioner's proposed form does not include any
22 subcategory codes for use in identifying the nature of a case. Such three-digit numerical
23 codes are currently utilized by the Superior Court in Maricopa County to track and report on
24 cases within each category through an automated system and allow "case differentiation" for
25 use in case management by Civil Court Administration personnel. Attached hereto as
26 Exhibit B is the current form of civil cover sheet required by the Superior Court in Maricopa

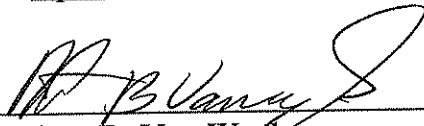
1 County, which form reflects present use of these numerical subcategory codes. The State
2 Bar believes that any form civil cover sheet adopted for statewide use in the Superior Court
3 should retain these subcategory codes.

4 D. Amount in Controversy Section. Petitioner's proposed form includes a section
5 in which a party may specify the amount in controversy in a matter, if alleged, including
6 designation as to the amount of compensatory damages, punitive damages and attorneys'
7 fees sought by that party. The State Bar notes that inclusion of any specific amount of
8 punitive damages in this block may be inconsistent with Rule 8(g) of the Arizona Rules of
9 Civil Procedure, which bars plaintiffs from specifying the amount of damages sought unless
10 they are for a sum certain or can by computation be made certain. Moreover, parties are
11 rarely, if ever, able to specify at the time of case initiation the amount of attorneys' fees they
12 seek. The current form of civil cover sheet required by the Superior Court in Maricopa
13 County contains no amount in controversy section (see Exhibit B), and the State Bar
14 understands that the information set forth in this section of the proposed form would not be
15 utilized by the Superior Court for any purpose. As such, the State Bar recommends that any
16 form civil cover sheet adopted for statewide use in the Superior Court not include an amount
17 in controversy section.

18 **IV. Conclusion.**

19 The State Bar supports petitioner's effort to achieve statewide uniformity with respect
20 to the substance of civil cover sheets and, subject to the specific comments and
21 recommendations set forth here, supports amending Rule 8(h)(1) to provide the AOC with
22 authority to adopt a form for statewide use. The State Bar opposes the Petition insofar as it
23 seeks amendment to Rule 84 to include a form of civil cover sheet.

1 RESPECTFULLY SUBMITTED this 1st of April 2008.

2 
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9 Electronic copy filed with the
10 Clerk of the Supreme Court of Arizona
11 this 1st day of April 2008.

12 By: Kathleen A. Lundgren
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Exhibit A

The State Bar's Suggested Modifications to Petitioner's Proposed Amendments to Rule 8(h)(1).

- Petitioner's proposed additions shown by underscoring (e.g., plaintiff) and deletions shown by strike-through (e.g., ~~plaintiff~~)
- The State Bar's proposed additions are shown in bolded italic (e.g., ***plaintiff***) and deletions shown by strike-through of petitioner's underscored additions (e.g., ~~plaintiff~~)

Rule 8(h). Civil Cover Sheets; Classifications of Civil Actions

(1) ~~Counsel for plaintiff or petition shall describe in the caption of each~~
~~complaint or petition filed with the court the nature of the civil action or proceeding,~~
~~as follows: Tort Motor Vehicle, Tort Non-Motor Vehicle, Contract, Domestic~~
~~Relations, Eminent Domain or Non-classified Civil, Writ of Garnishment. When At~~
~~the time of filing the initial complaint or petition in a civil action, the plaintiff or~~
~~petitioner shall complete and file a Civil Cover Sheet in a the form prescribed by the~~
~~Administrative Office for the Courts. set forth in Rule 84. The administrative~~
~~director may revise or approve requested alterations in the form set forth in Rule 84.~~
~~The administrative director may revise or approve requested alternations in this form.~~
~~The Civil Cover Sheet shall contain the following: plaintiff(s) correct name and~~
~~mailing address; the name of plaintiff's attorney and bar number; the defendant's~~
~~name(s), the nature of the civil action or proceeding and such other information as~~
~~the court may require. The superior court in each county may attach an additional~~
~~page to the Civil Cover Sheet, if necessary, for supplementary information such as~~
~~other case types or indication of the complexity of a case.~~

Exhibit B

In The Superior Court of the State Of Arizona
In and For the County Of Maricopa

CIVIL COVER SHEET

For Official Use Only
Cause Number

File Date

Plaintiff's Name (List additional Plaintiffs on page 2)

Plaintiff's Attorney (Name and Bar Number)

Plaintiff's Address

Defendant's Name (List additional Defendant's on page 2)

EMERGENCY ORDER SOUGHT: ☐ TRO ☐ Provisional Remedy ☐ OSC ☐ Other (Specify) _____

REASON FEES NOT PAID: ☐ Government Charge ☐ Deferred

DIRECTIONS: You must complete both Section I and Section II below. Section II continues on the 2nd page.

SECTION I. COMPLEXITY

Place an "X" in the box of **no less than one** of the following:

This case:

- ☐ Involves Antitrust/Trade Regulation
- ☐ Involves Construction Defect w/many parties or structures
- ☐ Involves Mass Tort
- ☐ Involves Securities Litigation w/many parties
- ☐ Involves Environmental/Toxic Tort w/many parties
- ☐ Involves Class Action Claim(s)
- ☐ Involves Insurance Coverage Claims arising from the above-listed case types
- ☐ Is a Complex Civil Case as defined by Rule 8(i), ARCP
- ☐ Does not involve any of the above

SECTION II. NATURE OF ACTION

Place an "X" in the box next to the number that describes the nature of the case. Please check **ONE** nature of action **ONLY**.

100 TORT MOTOR VEHICLE

- ☐ 101 Non Death Injury
- ☐ 102 Property Damage
- ☐ 103 Death

110 TORT NON-MOTOR VEHICLE

- ☐ 111 Negligence
 - ☐ 112 Products Liability
 - ☐ 113 Intentional
 - ☐ 114 Property Damage
 - ☐ 115 Legal
 - ☐ 116 Other (Specify) _____
- (select one)

120 MEDICAL MALPRACTICE

- ☐ 121 Physician – MD
- ☐ 122 Physician – D.O.
- ☐ 123 Hospital
- ☐ 124 Other (Specify) _____

130 CONTRACTS

- ☐ 131 Account (Open or Stated)
- ☐ 132 Promissory Note
- ☐ 133 Foreclosure
- ☐ 134 Other (Specify) _____
- ☐ 135 Real Property Excess Proceeds
- ☐ 136-137 Construction Defects (Residential/Commercial)

- ☐ 136 One to Nineteen Structures
- ☐ 137 Twenty or More Structures

NATURE OF ACTION – Continued

140 APPEAL or REVIEW – Use Clerk of court's LC Appeals Coversheet

150 – 177 OTHER CIVIL

- | | |
|---|---|
| <input type="checkbox"/> 150 Property Tax (A.R.S. §12-163(b))
(<u>ALL</u> other tax matters <u>must</u> be filed in the AZ Tax Court) | <input type="checkbox"/> 165 Tribal Judgment |
| <input type="checkbox"/> 151 Forcible Detainer | <input type="checkbox"/> 167 Structured Settlement (A.R.S. §12-2901) |
| <input type="checkbox"/> 152 Change of Name | <input type="checkbox"/> 169 Attorney Conservatorships (filed by the AZ State Bar) |
| Bar) | <input type="checkbox"/> 170 Unauthorized Practice of Law (filed by the AZ State Bar) |
| <input type="checkbox"/> 153 Transcript of Judgment | <input type="checkbox"/> 171 Out of State Deposition for Foreign Jurisdiction
(Commissions/Letters Rogatory ARCP 28(a)(b)) |
| <input type="checkbox"/> 154 Foreign Judgment | <input type="checkbox"/> 172 Secure Attendance of prisoner |
| <input type="checkbox"/> 155 Declaratory Judgment | <input type="checkbox"/> 173 Assurance of Discontinuance |
| <input type="checkbox"/> 156 Eminent Domain | <input type="checkbox"/> 174 In State Deposition for Foreign Jurisdiction
(Issuance of Subpoena/Subpoena Duces Tecum per |
| <input type="checkbox"/> 157 Habeas Corpus | |
| <input type="checkbox"/> 158 Quiet Title | |
| ARCP 30(h)) | |
| <input type="checkbox"/> 159 Restoration of Civil Rights | <input type="checkbox"/> 175 Election Contest |
| <input type="checkbox"/> 160 Forfeiture | <input type="checkbox"/> 176 Eminent Domain – LIGHT RAIL ONLY |
| <input type="checkbox"/> 161 DES Instant Judgment | <input type="checkbox"/> 177 Interpleader – AUTOMOBILE ONLY |
| <input type="checkbox"/> 162 Harassment | <input type="checkbox"/> 178 Delayed Birth Certificate (A.R.S. §36-333.03) |
| <input type="checkbox"/> 163 Other (Specify) _____ | <input type="checkbox"/> 179 Employer Sanction Action
(Valid after 01/01/08) (A.R.S. §23-212/ARCP 65.2) |

To the best of my knowledge, all information is true and correct.

Signature of Attorney or Plaintiff

ADDITIONAL PLAINTIFF(S):

ADDITIONAL DEFENDANT(S):

NOTICE

PLEASE DO NOT INCLUDE THIS FORM WITH CASES THAT HAVE ALREADY BEEN FILED. This form can only be processed at the time of filing New Complaints and Petitions.

Thank you for assisting us with our efforts to improve service.